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10/767,565	01/29/2004	Donald R. Gearhart	12195-004	5093

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EXAMINER

MUSSER, BARBARA J

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## Office Action Summary

Application No.

10/767,565

Applicant(s)

GEARHART, DONALD R.

Examiner

Barbara J. Musser

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11,13,14,21 and 24-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11,13,14,21 and 24-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/29/04, 8/8/05
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Election/Restrictions***

The restriction of species has been withdrawn as applicant has amended the claims such that only one species remains.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11, 13, 14, 21, and 24-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, it is unclear what is meant by the maintaining tension step as it appears to be maintaining the tension of the sheet, i.e. before it is formed into the substrate, while Figure 7 is a flowchart, and flowcharts are considered to show the order of steps, which indicates the maintaining of the tension occurs after the formation of the substrate. It is unclear how if tension is applied, the sheet can be retained freely between the mold parts as tension indicates force of some sort, which would generally be considered something that would prevent the sheet from moving freely. For the purposes of examination, this step is considered to mean the sheet is retained in some manner at its periphery between the first and second mold portions during molding. This is considered to include the periphery being formed into a shape which would hold it on the mold.



Claim 21 contains the trademark/trade name Azdel. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a porous material comprising 55% glass fiber and 45% polypropylene resin and, accordingly, the identification/description is indefinite.

Regarding claim 27, it is unclear what is meant by a Ren board as the specification does not disclose what this is. It is unclear if this is a trademark or not, as it is not indicated as a trademark in the specification, but in the claim it is in all capital letters, which is how a trademark is generally shown. If it is a trademark, see the rejection of claim 21 above.

Regarding claim 29, it is unclear what is meant by "the first and second parts define generally and radius portions of the porous substrate". For the purposes of examination, this is assumed to mean that the parts define general and radius portions of the substrates.



***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11, 13, 14, 21, 24-26, and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al.(U.S. Patent 5,932,331) and Benninger(U.S. Publication 2004/0217523).

Jones et al. discloses a trim panel made of a porous felt substrate(48) which is bonded to a cover laminate(42-46). The panel has a shape at the edges(the top hooked region near 30) such that it would maintain tension on the sheet while it is molded.(Figure 2) The reference does not disclose how the trim panel is made. Benninger disclose a method of making a trim panel by heating a porous substrate between first and second mold portions, applying pressure to form the sheet into a substrate, positioning the substrate on a vacuum fixture, disposing a cover on it with adhesive therebetween, heating the cover and adhesive, and vacuum forming it to the substrate.([0011]-[0018]) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use this method to form the trim panel of Jones including an adhesive between the cover and the substrate since Jones does not disclose how the panel is formed and since Benninger discloses this method allows deep draws and sharp angles to be formed in the trim panel without the risk of tearing the cover laminate[0020] and to use an adhesive between the cover and the substrate



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as suggested by Benninger since this would bond the layer together preventing them from moving relative to one another. Since the adhesive is heated, i.e. soft, when the vacuum is pulled, one in the art would appreciate that the adhesive would be drawn into the pores of the substrate since the vacuum is pulling on a softened adhesive film.

Since the mold is intended to form the substrate into the shape in Jones et al., it would have a shape corresponding to that of Jones et al., i.e. it would have a C-shaped section near 30 and a curve at the bottom such that the mold would have a retaining portion at its periphery which would retain the sheet in the mold during molding.

Regarding claims 13 and 14, while Benninger is silent as to the temperature and pressure at which the substrate is molded, one in the art would appreciate that it would be molded at the same temperature ranges and pressures as applicant's since they are making the same type of article as applicant and therefore would be made of the same types of materials.

Regarding claims 21 and 30, Jones et al. discloses the substrate is felt but does not describe it further. Benninger discloses the substrate can be Azdel[0011], which comprises 55% glass fiber and 45% polypropylene, as indicated by applicant.[0019] It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the substrate of Jones et al. from Azdel instead of felt since this would allow air to be pulled through easily as is desired by the method of Benninger.

Regarding claim 24, while Benninger is silent as to the temperature to which the adhesive is heated, the temperature chosen would have been within the purview of one



in the art since the types of materials used in trim panels and their melting temperatures are well-known in the trim arts.

Regarding claim 25, Benninger discloses an adhesive film can be applied between the cover and the porous materials[0016]

Regarding claim 26, Benninger is silent as to whether the adhesive film is laminated to the cover material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to bond the adhesive to the cover laminate so that only one layer would need to be positioned on the substrate.

Regarding claim 28, Jones shows a portion of the edges of the trim panel have a general C shape, indicating that the retaining edges of the mold portions would have a generally C shape.(Figure 2, near 30)

Regarding claim 29, while the references do not disclose the clearance between mold sections in various locations, these appear to be conventional clearances between the mold portions.

Regarding claim 31, while Benninger discloses trimming the substrate after molding, one in the art would appreciate it could alternatively be performed before molding, and that only the expected results would be achieved.

Regarding claim 32, Benninger discloses trimming after molding[0014]. Jones discloses a pocket(31) which would clearly be considered an attachment which would have been joined after molding.



**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BJM

  
SAM CHUAN YAO  
PRIMARY EXAMINER